IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 25-0186

DAVID E. ORR,
Appellant,
vs.
TIFFANY HOUSE,
Appellee.

APPELLEE'S ANSWER BRIEF

On Appeal from the District Court of the Nineteenth Judicial District
of the State of Montana, In and For the County of Lincoln,
Before the Honorable Matthew J. Cuffe

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I. STATEMENT OF THE ISSUES

Appellee Tiffany House ("Appellee") disagrees with Appellant David Orr's ("Appellant's") characterization of the statement of the issues presented in the initial brief. *See* Mont. R. App. P. 12(2). Appellant impermissibly focuses on issues that have previously been decided by this Court and were never raised with the District Court.[1] The issue presented by the Appellee is whether the District Court abused its discretion when it denied Appellant's various requests for relief from its prior orders pursuant to Mont. R. Civ. P. 60(b) after it determined that the central issues of the case had been resolved on appeal.

II. STATEMENT OF THE CASE

This action arises from an Arizona judgment entitling Appellee to sell property acquired by her former husband, Conrad Coggeshall ("Coggeshall") during their marriage. The Arizona court ordered certain Montana property to be sold and authorized Appellee to take any action necessary to complete the sale. *See* Arizona Judgment at pg. 3, *In re the Matter of Conrad Coggeshall and Tiffany Coggeshall*, Sup. Ct. of Ari., Maricopa Cty., Case FC 2012-051948 (July 21, 2020), attached hereto as Appellee's Exhibit 2.

[1] *See* 2024 MT 204N, Case No. DA 23-0699 (hereinafter "*Orr I*"), attached hereto as Appellee's Exhibit 1.

Plaintiff filed her Verified Complaint on February 16, 2022, in the Nineteenth Judicial District ("District Court") alleging claims for quiet title and fraudulent transfer against Coggeshall, Appellant, and any unknown defendants. The District Court entered default against Coggeshall and the unknown defendants on August 23, 2023. It further granted summary judgment in favor of Appellee on July 28, 2023 ("Summary Judgment Order"), after Appellant failed to respond to Appellee's Motion for Summary Judgment.

On November 3, 2023, the District Court entered an Order ("Transfer Order") transferring the real property to Appellee, described as:

> A tract of land situated in the McAlmond Claim in the S 1/2 of Section 30, Township 32 North, Range 28 West, P.M.M., said Tract being known as Lot 16 of said McAlmond Claim, according to the plat thereof on file in the office of the Clerk and Recorder, Lincoln County, Montana. Irr Plat 1293
>
> AND
>
> A tract of land situated in the McAlmond Claim in the S 1/2 of Section 30, Township 32 North, Range 28 West, P.M.M., said Tract being known as Lot 31 of said McAlmond Claim, according to the plat thereof on file in the office of the Clerk and Recorder, Lincoln County, Montana. Irr Plat 1453
>
> Geocode: 56-4397-30-1-01-25-0000
>
> Assessment Code: 0000000009

("Real Property"). Orr, acting pro se, appealed the Summary Judgment Order.[2]

This Court affirmed the District Court's Summary Judgment Order on September 10, 2024, in *Orr I*, stating that Appellant was impermissibly raising issues never argued at the District Court. In response, Appellant filed a motion in the District Court entitled "Under FRCP Rule 60 Motion to Set Aside Order Transferring Real Property and Findings of Fact, Conclusions of Law, and Order and Denying the Right to a Jury Trial, Making Summary Judgment Unconstitutional" on September 20, 2024 ("First Rule 60 Motion"), prior to this Court remitting the case to the District Court.

Appellee filed a Motion to Strike the First Rule 60 Motion on October 1, 2024, on the basis that the case had not yet been remitted to the District Court at the time the First Rule 60 Motion was filed. Appellant acknowledged the error and filed a Motion to Rescind the First Rule 60 Motion ("Motion to Rescind"). Appellant subsequently filed his "Motion to Grant Relief and Quiet Title Back to Defendant Rule 60 Mont.R.Civ. 60(b)(1)(2)(3)(6) Mont. R. Civ. 38(a)(b) and Mont. R.Civ.P. 39(a) Statute of Limitations Real Property Law of Montana" ("Second Rule 60 Motion") and "Motion for Relief of Orders" ("Third Rule 60 Motion") on October

[2] Orr previously attempted to appeal the District Court's Summary Judgment Order. This Court dismissed that appeal as untimely. See *House v. Orr*, DA 23-0455 Order Dismissing Untimely Appeal, attached hereto as Appellee's Exhibit 3.

18, 2024. Finally, Appellant filed a "Motion to Amend" his Second Rule 60 Motion on October 25, 2024.

On February 7, 2025, the District Court issued an Order ("Final Order") denying Appellant's collective motions, to wit: 1) First Rule 60 Motion; 2) Motion to Rescind; 3) Second Rule 60 Motion; 4) Third Rule 60 Motion; and 5) Motion to Amend (collectively, "Rule 60 Motions"). In doing so, it found that Appellee "has obtained the primary relief sought in this action through the transfer of the aforementioned real property, which has been upheld on appeal, and through the default judgment against Conrad Coggeshall and the unknown defendants." The District Court incorporated the Transfer Order and default judgment by reference, and noted that all central issues in the case had been resolved, dismissing the case. Appellant appealed the District Court's denial of the Rule 60 Motions and Final Order shortly after.

III. STATEMENT OF THE FACTS

In 2009, Appellant transferred the subject real property from Warland Ridge Ventures, LLC, of which Appellant is the authorized representative and on information and belief the sole member, to Coggeshall. *See* Exhibit A to Appellant's Opening Brief. Coggeshall acquired the property during his marriage to Appellee. *See* Appellee Ex. 2, pg. 2. The deed itself is a form quitclaim deed titled "Quitclaim Deed - Joint Tenancy." *See* Appellant's Ex. A. However, Coggeshall is the only

Grantee, and Warland Ridge Ventures, LLC is the only Grantor. *Id.* As such, title to the property was vested completely in Coggeshall upon the recordation of the deed. *Id.*

On December 8, 2020, at the Appellee's request, the Arizona Court authorized the Appellee to transfer title to the property into her own name, a copy of which is attached hereto as Appellee's Exhibit 4. Rather than adhere to the Arizona Court's order, Coggeshall executed a quitclaim deed and transferred the property to Appellant on July 1, 2021, a copy of which is attached hereto as Appellee's Exhibit 5. Accordingly, Appellee initiated the underlying action to quiet title to the subject property in her name.

IV. STANDARD OF REVIEW

Appellant raises issues that were previously decided by this Court in *Orr I*. The District Court determined that *Orr I* conclusively decided in favor of Appellee and granted her requested relief, implicating the doctrine of law of the case. Application of that doctrine is reviewed under an abuse of discretion standard. *State v. Gilder*, 2001 MT 121, ¶ 9, 305 Mont. 362, 28 P.3d 488.

Further, an issue is not reviewed by the Supreme Court of Montana if raised for the first time on appeal unless the error is plain and the Court is firmly convinced that the proceeding would result in "manifest miscarriage of justice or compromise

the integrity of the judicial process." *In re H.T.*, 2015 MT 41, ¶ 14, 378 Mont. 206, 343 P.3d 159 (citations omitted).

Finally, the Rule 60 Motions appear to seek relief under Mont. R. Civ. P. 60(b)(1)(2)(3)(6).[3] The standard of review of a district court's ruling on a motion pursuant to Rule 60(b) "depends on the nature of the final judgment, order, or proceeding from which relief is sought and the specific basis of the Rule 60(b) motion." *Essex Ins. Co. v. Moose's Saloon, Inc.*, 2007 MT 202, ¶ 16, 338 Mont. 423, 166 P.3d 451. Generally, the district court's ruling is reviewed for abuse of discretion. *Id.* However, where the movant "sought relief under subsection (2) of Rule 60(b) based on newly discovered evidence" the standard of review is manifest abuse of discretion.

V. SUMMARY OF ARGUMENT

Appellant's appeal is improper for a number of reasons. First, this Court previously settled all issues raised by Appellant in *Orr I*. The District Court recognized that the *Orr I* decision bound it in all subsequent proceedings and appropriately issued the Final Order as a result. Second, the Appellant again inappropriately attempts to litigate issues that were never raised in the underlying case. These should be disregarded by this Court because they do not constitute plain

[3] Appellant's First Rule 60 Motion initially sought relief under the Federal Rules of Civil Procedure; however, Appellant subsequently attempted to withdraw this motion.

error, and thus do not warrant review for the first time on appeal, nor would a failure to consider them result in a manifest miscarriage of justice or compromise the integrity of the judicial process. Additionally, notwithstanding the above, Appellant's Rule 60 Motions are untimely and do not meet the high standard mandated by this Court to amend a prior judgment, and the District Court did not err when it denied them. Finally, Appellant barely raises undeveloped arguments surrounding the Rule 60(b) Motions and Final Order. These arguments should not be considered, as it is not this Court's duty to guess at a party's position.

VI. ARGUMENT

A. This Court's prior ruling in *Orr I* must be adhered to throughout its subsequent progress, both in the District Court and upon appeal.

Montana has long recognized the equitable doctrine of law of the case, reflecting that "appellate court judgments conclusively settle the law and establish the pertinent facts previously at issue in the case." *VanBuskirk v. Gehlen*, 2021 MT 87, ¶ 15, 404 Mont. 32, 484 P.3d 924 (internal citations omitted). This doctrine provides that when "this Court rules on a case and states a principle or rule of law necessary to the decision, our judgment becomes the law of the case; and must be adhered to throughout its subsequent progress, both in the trial court and upon subsequent appeal." *Id*. This doctrine encompasses all principles or rules of law previously at issue, and applies to all points which were directly involved in, and were passed upon in the prior decision on appeal, making it generally binding on the

lower court and in all subsequent proceedings of the case. *Id.* Thus, by definition it applies to "all issues previously decided by the lower court as affirmed on appeal those the aggrieved party had the opportunity to appeal but did not." *Id.* Finally, it also applies to all factual and legal issues implicitly or necessarily considered and decided in reaching this Court's decision (but not to claims or related issues that could have been previously raised on appeal but were not). *Id.*

Here, the Appellant frames the issues before this Court as follows:

1. Whether Summary Judgment was proper against Appellant Orr's legal quitclaim deed, recorded as a Joint Tenancy With Right of Survivorship, "JTWRS," between Warland Ridge Ventures LLC, (owned by Orr), and Conrad Coggeshall in the Clerk and Recorders [sic] office in Libby, Lincoln County, Montana, on May 21, 2009.
2. Whether the Appellee, Tiffany House of Scottsdale, Arizona, had any right to a claim on the real property JTWRS Deed whatsoever.
3. Whether House fraudulently misrepresented the JTWRS to the Arizona Judge who presided over the marriage dissolution between House and Coggeshall in 2012.
4. Whether House broke Real Property Laws of Arizona and Montana, other laws, stipulations, in the marriage dissolution, and Fraud on the Courts of both states.

5. Why Appellant Orr's Constitutional Rights of No Person Shall be Deprived Life, Liberty, or Property without Due Process of Law, V, and XIV amendments and the Right to Trial by Jury, VII amendment, were violated without one single word or hearing, or stepping one foot in a court room, before having David E. Orr's Real Property confiscated by the Nineteenth Judicial District Court of Montana.

In his prior appeal (*See* Ex. 4, *Orr I* Appellant Brief), Appellant styled, in part, the issues in an almost identical manner, including:

- "…a District Court Order grant[ed] Plaintiff's motion for Summary Judgment on July 28, 2023…Should Orr have his property taken away without a hearing, or stepping one foot in the Courtroom?" Ex. 4, p.1.
- "Plaintiff had no right to [the JTWRS] whatsoever." *Id.*, p. 2.
- "Doesn't this Quit Claim make this case a complete mistake of law, and a total gross injustice?" *Id.*
- "This Lawsuit should have never proceeded, from this point going forward, based on a decision by an Arizona Judge, in a divorce case in Arizona. Whether or the Arizona Judge actually saw this Deed, is unknown…[House] went back to the Arizona Judge and he authorized her to put it in her name. He had no right to authorize her to do so." *Id.*, p. 6.

- "Were Mr. Orr's Constitutional Rights, guaranteed by the United States Constitution, V amendment, VII, and the Montana State Constitution, Article II Section 26, and 27, violated, under due process of law, and his right to a jury trial?" *Id.*, p. 1.

In essence, Appellant's arguments remain identical to those previously raised on appeal.

This Court rejected these arguments in *Orr I*. As discussed further below, it held that "Orr could have raised his arguments below by filing a response to House's motion for summary judgment or a motion for relief from summary judgment pursuant to M. R. Civ. P. 60(b)." *Orr I*, 2024 MT 204N, at ¶ 12. Orr failed to do so. *Id.* Accordingly, the Court affirmed the District Court's order granting summary judgment in favor of Appellee quieting title to the Real Property. *Id.*, ¶ 2.

Appellant's appeal is a transparent attempt to relitigate the issues raised and conclusively rejected in *Orr I*. As the District Court recognized, Appellee obtained the primary relief she sought *via* the transfer of the Real Property, which "has been upheld on appeal." Consequently, *Orr I* applies to all points directly involved with that decision. In the intervening time since that decision, no new issues have been raised at the District Court. Instead, Appellant filed a myriad of motions, raising identical arguments, aimed at disturbing the District Court' Summary Judgment

Order. The only other action of note in the underlying case is the District Court's entry of the Final Order.[4]

Orr I's decision affirming the Summary Judgment Order is the law of the case and is binding on the District Court. Accordingly, the District Court did not abuse its discretion when it denied Appellant's Motions.

B. Appellant asserts arguments that were not raised at the District Court, and it is not plain error for this Court to refuse to address the arguments.

While the Court may make accommodations for pro se litigants by relaxing technical and substantive requirements, it generally will not address an issue for the first time on appeal or a party's change in legal theory. *State v. Claus,* 2023 MT 203, ¶ 13, 413 Mont. 520, 538 P.3d 14 (citation omitted). This rule is founded on the principle that "it is fundamentally unfair to fault the trial court for failing to rule correctly on an issue it was never given the opportunity to consider." *Unified Indus., Inc. v. Easley,* 1998 MT 145, ¶ 15, 289 Mont. 255, 961 P.2d 100 (citation omitted). Only in rare instances is an issue heard for the first time on appeal. *In re H.T.*, ¶ 14. In those cases, the Court applies the common law plain error doctrine where the error is plain and it is firmly convinced that an aspect of the proceeding would result in a "manifest miscarriage of justice or compromise the integrity of the judicial process." *Id.* (citations omitted).

[4] The Rule 60 Motions all appear to be aimed at the Summary Judgment Order, not the Final Order.

In affirming the District Court's Summary Judgment Order in *Orr I*, this Court explained:

> Orr could have raised his arguments below by filing a response to House's motion for summary judgment or a motion for relief from summary judgment pursuant to M. R. Civ. P. 60(b). The requirement that litigants preserve their arguments for appeal is not a punishment; it is a procedural requirement intended to give the district courts and other litigants fair notice of the legal issues involved in a case. As we have long held, it is reasonable to expect all litigants, including those acting pro se, to adhere to the procedural rules that ensure a fair judicial process. *Cox v. Magers*, 2018 MT 21, ¶ 15, 390 Mont. 224, 411 P.3d 1271 (citation omitted). By failing to do so, Orr failed to preserve his arguments for appeal. Therefore, we decline to address them.

Orr I, ¶ 12.

Here, Appellant raises the same arguments that he failed to raise at the District Court for the second time on appeal. Of course, Appellant could and should have properly raised these arguments in response to Appellee's Motion for Summary Judgment. He failed to do so. It would be unfair to fault the District Court for failing to rule on arguments it was never given the opportunity to consider.

Nor would failure to consider any of the issues that Appellant attempts to raise on appeal for the second time result in a manifest miscarriage of justice or compromise the integrity of the judicial process. While technical and substantive requirements are at times relaxed for pro se litigants, Appellant was not trapped in some procedural morass where one false step could doom the unwary. Instead, Appellant failed to comply with the basic requirements of Rule 56 — "If the

opposing party does not respond, summary judgment should, if appropriate, be entered against that party." Rule 56(e)(2). The District Court determined summary judgment against Appellant was appropriate after he failed to respond. This Court affirmed. As the Court has repeatedly stated, "it is reasonable to expect all litigants, including those acting pro se, to adhere to procedural rules." *Cox*, ¶ 15; *Orr I*, ¶ 12. These circumstances fall squarely under that pronouncement. Accordingly, application of the plain error doctrine would be inappropriate and the Court should not consider arguments that the District Court did not have a chance to consider.

C. Appellant may not seek relief under Rule 60(b)(1)(2) or (3) because he did not timely file his Rule 60 Motions, nor is relief appropriate under any of these subsections.

"There must be some point at which litigation ends and the respective rights between the parties are forever established. Under ordinary circumstances, once this point is reached a party will not be allowed to disturb that judgment." *Essex*, ¶ 16. Montana Rule of Civil Procedure 60(b) provides an exception to this general rule. Rule 60(b) states the following:

> On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons:
> (1) mistake, inadvertence, surprise, or excusable neglect;
> (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
> (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
> (4) the judgment is void;

> (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
> (6) any other reason justifying relief from the operation of the judgment.

A party may generally seek Rule 60(b) relief within a reasonable time under the circumstances, but in no event may they seek relief under subsections 60(b)(1)-(3) more than a year after entry of the judgment. Rule 60(c)(1). This deadline is "mandatory and subject to strict enforcement." *Meine v. Hren Ranches, Inc., 2020 MT 84, ¶ 16, 402 Mont. 92, 475 P.3d 748*, ¶ 16. Regardless, "what is a reasonable time [under Rule 60(b)] will depend on the facts of the individual case." *Essex*, ¶ 32 (decided in the context of a Rule 60(b)(6) motion).

Here, the Court's Summary Judgment Order was issued on July 28, 2023. The Transfer Order was issued on November 11, 2023. The First Rule 60 Motion was filed on September 20, 2024. The Second and Third Rule 60 Motion were filed on October 18, 2024. The Rule 60 Motions all aim to reconsider the relief granted in the Summary Judgment Order. Appellant filed the Rule 60 Motions more than a year after the Summary Judgment Order, in contravention of Rule 60(c)(1). As stated above, this deadline is mandatory and strictly enforced. To the extent that Appellant is attacking the relief granted in the Summary Judgment Order, he is barred by his own untimeliness.

To the extent that the Rule 60 Motions also seek to repudiate the Transfer Order, these too are untimely. Rule 60(c)(1) provides an outer limit as to what may be considered reasonable under subsection 60(b)(1)(2), or (3), not a safe harbor. Here, Appellant's Rule 60 Motions came approximately eleven months after entry of the Transfer Order. During this extended period, Appellant:

1. Pursued an appeal to this Court;

2. Saw his appeal dismissed as untimely;

3. Filed a second appeal; and

4. Had that second appeal resolved against him on the merits.

Typically, one may expect a Rule 60 motion to be filed before an appeal finally delineated the parties' rights. Appellant took the opposite route, waiting until after *Orr I* to file his Rule 60 Motions. Given this timeline, it would be impossible to argue that Appellant acted in a reasonable fashion.

Even if the request for relief under Rule 60(b)(1)(2) and (3) was timely, Appellant has failed to show that that relief under any of the cited subsections are appropriate. First, Rule 60(b)(1) allows relief from a final judgment if the party can show "mistake, inadvertence, surprise, or excusable neglect, when there is "some justification…beyond mere carelessness or ignorance of on the part of the litigant." *Id.*, ¶ 15. Notwithstanding the fact that it is unclear what mistake Appellant is alleging that would allow relief under Rule 60(b)(1), it is clear that Appellant's

failure to follow the law directly contributed to the transfer of the Real Property. Appellant admits that "the Summary Judg[]ment decision was based on Orr not answering questions of admissions presented by Appelle[e]." Appellant Brief, p. 10. He admits he reviewed the discovery requests and did not understand "what would any of this have to do with his two legal quitclaim deeds." *Id.* He finally acknowledges that, based on a scrivener's error,[5] he declined to answer them. *Id.* However, rather than raise this argument with the District Court when Appellee moved for summary judgment, Appellant again failed to respond. Appellant's failure to appreciate the consequences of his actions does not fall within the gamut of mistakes that may be rectified under Rule 60(b)(1).

Secondly, Rule 60(b)(2) allows the court to "relieve a party or its legal representative from a final judgment, order, or proceeding for . . . newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)[.]" *Moore v. Frost*, 2021 MT 74, ¶ 12, 403 Mont. 483, 483 P.3d 1090. Newly discovered evidence may constitute grounds for relief if the following conditions are met:

> (1) the alleged newly discovered evidence came to the moving party after trial; (2) it was not a want of due diligence which precluded its earlier discovery; (3) the materiality of the new evidence is so great that

[5] A scrivener's error is "[a]n error resulting from a minor mistake or inadvertence and not from judicial reasoning or determination; esp. a drafter's or typist's technical error that can be rectified without serious doubt about the correct reading." *In re Marriage of Schaub*, 2024 MT 229, ¶ 24 n.1, 418 Mont. 297, 557 P.3d 924.

> it would probably produce a different result on retrial; and (4) the new evidence is not merely cumulative, not tending only to impeach or discredit witnesses in the case.

Id.

Appellant points to no new evidence because there is none. The parties have been operating off the same set of facts for years. The collection of exhibits attached to his appeal are documents either generated through the course of litigation that Appellant was well aware of at the time of their inception, or deeds that Appellant has repeatedly tried to repudiate or interpret. Subsection (b)(2) is thus inapplicable.

Finally, Rule 60(b)(3) allows relief from a final judgment or order due to "fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party[.]" Here, Appellant's brief does not explain why Rule 60(b)(3) relief is appropriate. Nowhere in the brief does Appellant mention that Appellee, or any other party, perpetuated any sort of fraud, apart from the statement of issues and asserting that the Arizona judgment was "questionable and needs to be authenticated." Appellant Brief, pp. 1 & 7. Indeed, Appellant characterizes the case as a disagreement. *See* Appellant Brief, p. 5 ("This is a simple matter involving two Quitclaim Deeds. WB[C] refused to acknowledge the Reservation in the quitclaim deed so he and Orr disagreed."). Instead, the brief is largely a rehash of Appellant's various procedural misadventures.

Because Appellant simply continues to assert the same argument rather than providing any evidence of fraud as required under subsection (b)(3), the District Court did not err by denying the requested relief as a result. *See, e.g., Ailer v. State*, 2023 MT 237N, at *16 (continuing to "assert the same arguments that have already been raised and addressed previously," particularly without "proof of mistake, fraud, deceit or infraction that would entitle him to relief" does not allow relief under Rule 60(b)(3)).

Appellant's request for relief under Rule 60(b)(1)(2) and (3) is both untimely and inappropriate. Accordingly, the District Court did not err in its Final Order denying the Rule 60(b) Motions.

D. Appellant's Rule 60(b)(6) Motions did not show that no other grounds of relief are available and otherwise fails to show that circumstances are extraordinary, the request is timely, and that Appellant is blameless.

A party cannot claim relief under Rule 60(b)(6) if he claims relief under any other provision of 60(b). *Koch v. Billings Sch. Dist. No. 2,* 253 Mont. 261, 265, 833 P.2d 181, 183 (1992). Thus, any Rule 60(b) motion should fall under either subsection 60(b)(1)-(5) or Rule 60(b)(6), "but not both, since the two are mutually exclusive." *Id.* Instead, to receive Rule 60(b)(6) relief, the movant must show that none of the other five reasons in Rule 60(b) apply. *Essex*, ¶ 21. Failure to do so is grounds for denial of a Rule 60(b)(6) motion. *Id.*, ¶ 23.

Consequently, "[r]elief under [Rule 60(b)(6)] is appropriate only in extraordinary circumstances which go beyond those covered by the first five subsections of the rule." *Id*, ¶ 21. As such, "[i]t must be shown that something prevented a full presentation of the cause or an accurate determination on the merits and that for reasons of fairness and equity redress is justified." *Id.*, ¶ 22. Relief under Rule 60(b)(6) requires that the movant demonstrate: 1) extraordinary circumstances; 2) the movant acted to set aside the judgment within a reasonable period of time; and 3) the movant was blameless. *Id*., ¶ 25. The movant must meet all three of these elements. *Id*., ¶ 33 (". . .in other words, the elements are conjunctive, not disjunctive.").

From the outset, denial of the Rule 60(b)(6) relief was proper because Appellant failed to show that no other subsection of Rule 60 applied. Instead, Appellant took a scattershot method, alleging various grounds for relief in addition to subsection (b)(6). Such an approach is impermissible.

Even if the Rule 60 Motions effectively argued that Rule 60(b)(6) provided the only grounds for relief from the Summary Judgment or Transfer Order, they still would fail. Appellant did nothing to establish that the circumstances were extraordinary. Indeed, Appellant's posture is similar to that in *Essex*. There, the appellants "had the opportunity, and were clearly entitled to" appeal a summary judgment determination. *Essex.*, ¶ 26. The appellants did not do so. *Id.* (citations

omitted). This failure to act "establish[ed] that the requisite extraordinary circumstances do not exist in this case." *Id.* Like in *Essex*, Appellant had every right (and was entitled) to respond to Appellee's Motion for Summary Judgment Motion. Appellant was aware that he needed to respond, and Appellant failed to do so. Nothing is extraordinary about a summary judgment default as a result of the opposing party's own volition.

Similarly, the request for relief under Rule 60(b)(6) is untimely. As explained above, what constitutes reasonable time will depend on the facts of the particular case. Seeking relief from an order of the District Court only after this Court has affirmed said order is the very definition of untimely.

Finally, Appellant is not blameless. As discussed previously, Appellant admits to failing to respond to Appellee's discovery requests. Appellant similarly ignored his opportunity to respond to Appellee's Motion for Summary Judgment. At every turn, Appellant had an opportunity to act and articulate his arguments. Instead, he chose to sit upon his rights. Appellant cannot now claim innocence or unfairness when his very actions led to this case's outcome.

E. It is not this Court's job to develop legal analysis to support Appellant's position.

Finally, while Appellant's Brief ostensibly appeals the denial of Rule 60 Motions and the Final Order itself (*see* Appellant Brief, p. 7), it focuses primarily on

the District Court's Summary Judgment Order, leading the Court to guess the grounds under which Appellant appeals. As this Court previously explained:

> Parties must present a reasoned argument to advance their position. M. R. App. P. 12(1)(f). It is not this Court's job to 'conduct legal research on a party's behalf, to guess as to a party's precise position, or to develop legal analysis that may lend support to that position.' *Griffith v. Butte Sch. Dist. No. 1*, 2010 MT 246, ¶ 42, 358 Mont. 193, 244 P.3d 321 (citations omitted). We will not consider unsupported issues or arguments. *Id.*

Osman v. Cavalier, 2011 MT 60, ¶ 8, 360 Mont. 17, 251 P.3d 686. Appellant's argument largely rehashes his grievances with the District Court surrounding the Summary Judgment Order and the circumstances surrounding Appellee's marriage dissolution. Appellant's Brief, p. 7-10. Save a single sentence stating "The District Court does not address any of the issues Appellant, Orr introduced in his Rule 60 Motion," nowhere does the brief address why the District Court erred in its denial of the Rule 60 Motions or its issuance of the Final Order. Accordingly, this Court should not consider Appellant's unsupported arguments.

VII. CONCLUSION

"There must be some point at which litigation ends and the respective rights between the parties are forever established." *Essex*, ¶ 16. The parties have reached this point. Nearly a year ago, in *Orr I*, this Court affirmed the transfer of the Real Property to Appellee. Appellant continues to argue against relief that has finally been adjudicated, raises issues never brought before the District Court, and appeals

improper Rule 60(b) Motions. Appellant's misapprehension of the law should not be allowed to continue to drain Appellee's time and resources. This Court should affirm the ruling of the District Court.

DATED this July 29, 2025.

CHRISTIAN, SAMSON & BASKETT, PLLC

/s/ W. Bridger Christian
W. Bridger Christian
Attorney for Appellee

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11(4)(e) of the Montana Rules of Appellate Procedure, we the undersigned hereby certify that the foregoing Appellee's Answer Brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced except for footnotes, quoted, and indented material; and that the word count calculated by Microsoft Word is 5,150 words, excluding the caption, Table of Contents, Table of Authorities, Certificate of Compliance, and Certificate of Service.

DATED this 29th July, 2025.

CHRISTIAN, SAMSON & BASKETT, PLLC

/s/ W. Bridger Christian
W. Bridger Christian
Attorney for Appellee

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, in accordance with Rule 10(2) of the Montana Rules of Appellate Procedure, this 29th day of July, 2025, I served a true and correct copy of the foregoing document on the following parties via U.S. mail and e-filing:

David E. Orr
957 Warland Creek Rd.
Libby, Montana 59923
Appellant Pro Se

DATED this 29th day of July, 2025

CHRISTIAN, SAMSON & BASKETT, PLLC

/s/ W. Bridger Christian
W. Bridger Christian
Attorney for Appellee